

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:20-CV-20-D

MARIANELA VELEZ,)
)
)
Plaintiff,)
)
)
v.) **ORDER**
)
)
RYAN D. MCCARTHY, Secretary)
of the Army,)
)
)
Defendant.)

On January 30, 2020, Marianela Velez (“Velez” or “plaintiff”), filed a pro se complaint in this court [D.E. 1]. On May 14, 2020, defendant moved to dismiss the complaint and filed a memorandum in support [D.E. 10, 11]. On June 4, 2020, plaintiff filed an amended complaint [D.E. 13]. On July 1, 2020, the court referred defendant’s motion to dismiss the complaint to Magistrate Judge Numbers for frivolity review [D.E. 15]. On August 6, 2020, defendant filed a motion to dismiss the amended complaint [D.E. 20] and a memorandum in support [D.E. 21]. On September 22, 2020, Judge Numbers issued a Memorandum and Recommendation (“M&R”) and recommended this court dismiss as moot defendant’s motion to dismiss the complaint. See [D.E. 25]. On October 21, 2020, the court adopted the M&R and dismissed defendant’s motion to dismiss the complaint as moot [D.E. 26]. On November 2, 2020, the court referred defendant’s motion to dismiss the amended complaint to Judge Numbers for frivolity review [D.E. 27]. On January 25, 2021, Judge Numbers issued a M&R and recommended that this court grant defendant’s motion to dismiss the amended complaint in part and dismiss all plaintiff’s claims except her sex-

discrimination claim. See [D.E. 29]. Neither party objected to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration, emphasis, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted). If a party makes only general objections, de novo review is not required. See Wells v. Shriners Hosp., 109 F.3d 198, 200 (4th Cir. 1997). In “order to preserve for appeal an issue in a magistrate judge’s report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.” Martin v. Duffy, 858 F.3d 239, 245 (4th Cir. 2017) (quotation omitted); United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. See Diamond, 416 F.3d at 315. Thus, the court adopts the conclusion in the M&R that defendant’s motion to dismiss the amended complaint should be granted in part and denied in part. Whether the remaining claim will survive a motion for summary judgment is an issue for another day.

In sum, the court ADOPTS the conclusions in the M&R [D.E. 29], and GRANTS in part and DENIES in part defendant’s motion to dismiss the amended complaint [D.E. 20]. Plaintiff’s sex-discrimination claim survives. Plaintiff’s other claims are dismissed.

SO ORDERED. This 15 day of February 2021.

J. Dever
JAMES C. DEVER III
United States District Judge